

June first

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SEP 22 1998

CONCORD, N.H.

Mr. Russell B. Tobey, Director
Recreation Division
State House Annex
Concord, New Hampshire

Dear Mr. Tobey:

You have requested my opinion as to whether the provisions of chapter 218, Laws of 1953, relative to the construction of sea walls at Hampton Beach, permits the state treasurer to deduct from the recreation funds amounts in excess of income derived from parking facilities. You have further inquired whether income may be used by your department for maintenance, operation and management.

Section 4 of the said chapter provided that upon completion of the project, the maintenance, operation and management shall be under the supervision of the Recreation Division. In addition to this, section 10 clearly provides that the income from charges for parking shall be paid into the funds of your division. The state treasurer is authorized to deduct from said funds such sums as may be necessary to meet interest and principal payments on the bonds issued for this purpose. This section further provides:

" . . . In the event that the income . . . authorized under this act shall not be sufficient to meet the costs of operation and maintenance thereof and to pay the interest and principal of the bonds issued . . . then such deficiency shall be a charge upon the general funds of the state, and the governor is hereby authorized to draw his warrant against the general funds of the state to cover such deficiency."

In view of the above the state treasurer may not deduct from Recreation Division funds, in payment of bonds, amounts in excess of that received from parking charges. The costs of operation and maintenance of the parking facilities would necessarily be paid first out of the income and the net income, if any, would be properly used for the payment of principal and interest on the bonds.

Very truly yours,

AEB,Jr./g

Arthur E. Bean, Jr.
Assistant Attorney General